

THE HON'BLE SRI JUSTICE R. RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

L.A.A.S. No.209 OF 2014

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JUDGMENT: (Per Hon'ble Sri Justice R. Ramasubramanian)

This appeal is filed by the Land Acquisition Officer under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act') questioning the correctness of the judgment of the reference Court - Senior Civil Judge, Adoni, enhancing the compensation from Rs.43,000/- per acre to Rs.2,00,000/- per acre.

2. Heard the learned Government Pleader appearing for the appellant and Sri K. Rajanna, learned counsel for respondent.

3. By a notification, dated 26-09-1998, issued under Section 4 (1) of the Act, the land of an extent of Acs.41.88 cents in Survey Nos.17/B2A and 17/B2B in Yemmiganur Town, Kurnool District, was sought to be acquired, for the purpose of construction of houses for the weaker sections of the society. After completing the formalities, an award was passed on 16-02-2006, fixing the market value at Rs.43,000/- per acre. The land owners sought a reference under Section 18 of the Act and the reference was taken on file in O.P. No.81 of 2006. By a judgment,

dated 26-02-2010, the reference Court arrived at the market value of the property as Rs.3,00,000/- per acre and after deducting 1/3rd towards development charges, fixed the compensation payable at Rs.2,00,000/- per acre. Aggrieved such enhancement granted by the reference Court, the Land Acquisition Officer has come up with the above appeal.

4. In so far as the enhancement granted by the reference Court from Rs.43,000/- per acre to Rs.2,00,000/- per acre is concerned, the issue is covered by a judgment of this Court, dated 07-04-2016, in LAAS No.587 of 2010 and batch. In the said batch of cases, the lands acquired under the very same notification and another notification, were involved. Even in that cases, the Land Acquisition Officer fixed the market value at Rs.42,000/- per acre for dry lands, Rs.43,000/- per acre for irrigable dry lands and Rs.46,000/- per acre for wet lands. They were enhanced to Rs.2,00,000/- per acre. Such enhancement was confirmed by a Division Bench of this Court by the judgment, dated 07-04-2016, by dismissing not only the appeals filed by the Land Acquisition Officer, but also dismissing the cross-objections filed by the land owners. Therefore, the respondent herein, in our considered view, is entitled to the confirmation of the judgment of the reference Court in so far as the fixation of compensation of Rs.2,00,000/- per

acre is concerned.

5. But at the same time there is one issue, which has gone out by oversight. By a judgment, dated 26-02-2010, the reference Court granted additional market value at 12% per annum on the enhanced market value, from the date of Section - 4 (1) notification i.e., 26-09-1998, up to 16-02-2006, the date of the award. But, possession of the lands had been taken on 23-03-1999 itself. Therefore, clause- 3 of the decree passed by the reference Court, dated 26-02-2010, in O.P. No.81 of 2006, requires to be modified, but the same has not been taken note of by the Division Bench in its judgment, dated 07-04-2016.

6. We agree that the judgment, dated 07-04-2016, is a binding precedent in so far as the market value fixed therein is concerned. But, in so far as clause - 3 of the decree granting additional market value is concerned, the same is contrary to the statutory provisions. Therefore, in so far as this aspect is concerned, the judgment of this Court, dated 07-04-2016, is not a binding precedent.

7. There is no denial of the fact that the additional market value is payable from the date of notification under Section 4 (1) of the Act either up to the date of the award or up to the date of taking possession whichever is earlier. Therefore, the appellant is entitled to succeed to a

limited extent on this aspect.

8. There is one more aspect, on which also the appellant is entitled to succeed. This relates to the award of interest at 9% per annum, under clause - 4 of the decree of the reference Court. Instead of awarding interest at 9% per annum from the date of taking possession, the reference Court awarded interest with effect from the date of notification under Section 4 (1) of the Act i.e., 26-09-1998. Therefore, this portion of the decree also requires to be modified.

9. In view of the above, the appeal is allowed in part, modifying clauses - 3 and 4 of the decree, dated 26-02-2010, passed in O.P. No.81 of 2006 by the learned Senior Civil Judge, Adoni, to the following effect:

- i) The claimant is entitled to the additional market value at 12% per annum on enhanced market value from the date of notification under Section 4 (1) of the Act i.e., 26-09-1998 up to 23-03-1999, the date of taking possession;
- ii) The claimant is entitled to interest at 9% per annum from 23-03-1999, the date of taking possession, for a period of one year and thereafter at 15% per annum till the date of payment of the enhanced market value, additional market value and the solatium.

All other clauses of the decree i.e., clauses - 1, 2, 5 and 6 are confirmed. There shall be no order as to costs.

As a sequel thereto, miscellaneous applications, if any pending in this appeal, shall stand closed.

V. RAMASUBRAMANIAN, J

A. SHANKAR NARAYANA, J

July 14, 2016
Mgr.